



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

SEP 20 2019

REPLY TO THE ATTENTION OF

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Rick Manley
Mauser Packaging Solutions
6 Litho Road
Trenton, NJ 08638

Re: Administrative Order EPA-5-19-113(a)-IL-09

Dear Mr. Manley:

Enclosed is an executed original of the Administrative Consent Order regarding the above captioned case. If you have any questions about the Order, please contact me at (312) 886-3850

Sincerely,

A handwritten signature in cursive script, which appears to read "Nathan Frank", is written over a horizontal line.

Nathan Frank, Chief
Air Enforcement and Compliance Assurance Section (IL/IN)

Enclosure

cc: Susan Tennenbaum/C-14J
Kent Mohr, Illinois EPA/via electronic mail

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)	EPA-5-19-113(a)-IL-09
)	
BWAY Corporation)	Proceeding Under Section 113(a)(3) and
Chicago, Illinois)	114(a)(1) of the Clean Air Act, 42 U.S.C.
)	§ 7413(a)(3) and 7414(a)(1)
_____)	

Administrative Consent Order

1. The Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency (EPA), Region 5, is issuing this Order to BWAY Corporation (BWAY) under Sections 113(a)(3) and 114(a)(1) of the Clean Air Act (CAA), 42 U.S.C. §§ 7413(a)(3) and 7414(a)(1).

Statutory and Regulatory Background

National Emission Standards for Hazardous Air Pollutants

2. Section 112 of the CAA, 42 U.S.C §7412(c), requires EPA to promulgate a list of all categories and subcategories of new and existing “major sources” of hazardous air pollutants (HAP), as defined by 42 U.S.C. § 7412(a)(1), and establish emission standards for the categories and subcategories. These emission standards are known as the National Emission Standards for Hazardous Air Pollutants (NESHAP).

3. “Major source” is defined as “any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants.” 42 U.S.C. § 7412(a)(1).

4. "Stationary source" is defined as "any building, structure, facility, or installation, which emits or may emit any air pollutant." 42 U.S.C. §§ 7411(a)(3) and 7412(a)(3).

5. "Hazardous air pollutant" is defined as "any air pollutant listed in or pursuant to" Section 112(b) of the CAA. 42 U.S.C. § 7412(a)(6).

6. Section 112(i)(3) of the CAA, 42 U.S.C. § 7412(i)(3), prohibits any person subject to a NESHAP from operating a source in violation of a NESHAP after its effective date. *See also* 40 C.F.R. §§ 61.05 and 63.4.

7. 40 C.F.R. Part 63, Subpart A, contains the General Provisions for the NESHAP.

8. 40 C.F.R. § 63.6(e)(1)(i) provides that the owner or operator must operate and maintain an affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions at all times.

NESHAP for Surface Coating of Metal Cans

9. Under Section 112 of the CAA, 42 U.S.C. § 7412, EPA promulgated the NESHAP for Surface Coating of Metal Cans at 40 C.F.R. §§ 63.3480 through 63.3561 (NESHAP KKKK).

10. 40 C.F.R. § 63.3481(a) provides, among other things, that the source category to which the NESHAP KKKK applies is surface coating of metal cans and ends (including decorative tins) and metal crowns and closures.

11. 40 C.F.R. § 63.3481(b) provides that the NESHAP KKKK applies to owners and operators of a new, reconstructed, or existing affected source, as defined in 40 C.F.R. § 63.3482, that uses 5,700 liters (1,500 gallons (gal)) per year, or more, of coatings in the source category defined in paragraph (a) of this section and that is a major source, is located at a major source, or is part of a major source of emissions of HAPs.

12. 40 C.F.R. § 63.3482 provides that the NESHAP KKKK applies to the following affected sources:

- (a) new, reconstructed, and existing affected source.
- (b) the affected sources listed below that are used for surface coating of metal cans and ends (including decorative tins), or metal crowns or closures:
 - (1) All coating operations as defined in 40 C.F.R. § 63.3561;
 - (2) All storage containers and mixing vessels in which coatings, thinners, and cleaning materials are stored or mixed;
 - (3) All manual and automated equipment and containers used for conveying coatings, thinners, and cleaning materials; and
 - (4) All storage containers and all manual and automated equipment and containers used for conveying waste materials generated by a coating operation.
- (c) a new affected source if you commenced its construction after January 15, 2003 by installing newcoating equipment. New coating equipment is equipment used to perform metal can surface coating at a facility where no metal can surface coating was previously performed and the construction is of a completely new metal can surface coating source where previously no metal can surface coating source had existed.
- (d) a reconstructed affected source if you meet the criteria as defined in 40 C.F.R. § 63.2; and
- (e) an affected existing source if it is not new or reconstructed.

13. 40 C.F.R. § 63.3491 states that a compliance option listed in paragraphs (a) through (d) of this section must be used to determine compliance with emissions limits established for surface coating operations.

14. 40 C.F.R. § 63.3491(d) describes the “[c]ontrol efficiency/outlet concentration option” for demonstrating compliance with emission limits. It states in part:

Demonstrate that, based on the emission reductions achieved by emission capture systems and add-on controls, total HAP emissions measured as total hydrocarbon (THC) are reduced by 95 percent or greater for existing sources, or 97 percent or greater for new or reconstructed sources, or that outlet THC emissions are less than or equal to 20 parts per million by volume, dry basis (ppmvd). If you use this compliance option, you must have a capture device that meets EPA Method 204 of 40 [C.F.R. Part] 51, appendix M criteria for a permanent total enclosure (PTE).

15. "Capture system" is defined as "one or more capture devices intended to collect emissions generated by a coating operation in the use of coatings, both at the point of application and at subsequent points where emissions from coatings occur, such as flash-off, drying, or curing." 40 C.F.R. § 63.3561.

16. "Capture device" is defined as "a hood, enclosure, room, floor sweep, or other means of containing or collecting emissions and directing those emissions into an add-on air pollution control device." 40 C.F.R. § 63.3561.

17. "Coating operation" is defined in part as "equipment used to apply coating to a metal can or end (including decorative tins), or metal crown or closure, and to dry or cure the coating after application. A coating operation always includes at least the point at which a coating is applied and all subsequent points in the affected source where organic HAP emissions from that coating occur." 40 C.F.R. § 63.3561.

18. 40 C.F.R § 63.3554 states, "[t]he capture efficiency of your emission capture system must be 100 percent to use the control efficiency/outlet concentration option. You may assume the capture system efficiency is 100 percent if both of the conditions in paragraphs (a) and (b) of this section are met."

19. 40 C.F.R. § 63.3554(a) states, “[t]he capture system meets the criteria in Method 204 of appendix M to 40 CFR part 51 for a PTE and directs all the exhaust gases from the enclosure to an add-on control device.”

20. 40 C.F.R. § 63.3554(b) states in part, “All coatings and thinners used in the coating operation are applied within the capture system, and coating solvent flash-off, curing, and drying occurs within the capture system.”

21. Appendix M to 40 C.F.R. Part 51 includes the following criterion for a PTE: “All VOC emissions must be captured and contained for discharge through a control device.”

22. Under Section 113(a)(3) of the CAA, 42 U.S.C. § 7413(a)(3), the Administrator of EPA may issue an order requiring compliance to any person who has violated or is violating the NESHAP regulations. The Administrator has delegated this authority to the Director of the Enforcement and Compliance Assurance Division.

23. The Administrator of EPA may require any person who owns or operates an emission source to make reports, sample emissions, and provide information required by the Administrator under Section 114(a)(1) of the CAA, 42 U.S.C. § 7414(a)(1). The Administrator has delegated this authority to the Director of the Enforcement and Compliance Assurance Division.

Findings

24. BWAY owns and operates a steel can manufacturing facility located at 3200 S. Kilbourn, Chicago, Illinois (the Facility).

25. The Facility emits more than 10 tons per year of a single HAP, toluene.

26. The Facility's operations include can coating line “Litho Line #4.”

27. The Facility's can-coating line Litho Line #4 uses 5,700 liters (1,500 gallons) per year, or more, of coatings.

28. BWAY's Litho Line #4 is a coating operation as defined at 40 C.F.R. § 63.3561.

29. BWAY's Facility is subject to the NESHAP KKKK.

30. On September 26, 2017, the Facility informed EPA, via email, that for purposes of demonstrating compliance with the emission limits of NESHAP KKKK, "the plant uses the fourth compliance method- control device efficiency/outlet concentration."

31. On July 21, 2017, the EPA conducted an inspection at the Facility. Using an infrared camera, EPA recorded footage of uncaptured VOC emissions escaping a capture device at Litho Line #4.

32. BWAY owns or operates an "emission source" within the meaning of Section 114 (a)(1) of the CAA, 42 U.S.C. § 7414(a)(1). Therefore, BWAY is subject to the requirements of Section 114(a)(1).

33. On December 22, 2017, EPA issued to BWAY a finding of violation alleging that it violated the NESHAP General Provisions and the NESHAP for Surface Coating of Metal Cans by failing to capture all VOC emissions at Litho Line #4.

34. On January 25, 2018, representatives of BWAY and EPA discussed the December 22, 2017 finding of violation.

Compliance Program

35. Within 180 days of the effective date of this Order, BWAY must achieve, demonstrate and maintain compliance with the NESHAP General Provisions and the NESHAP for Surface Coating of Metal Cans at its Chicago, Illinois facility.

36. BWAY must complete the following emission capture system improvements at Litho Line #4 no later than 45 days of the effective date of this Order:

- a. Add new ductwork to expand ducting to the exit end of the oven to improve capture;
- b. Install a 1,800 cubic feet per minute blower routing emissions to the existing thermal oxidizer; and
- c. Modify the duct header connection to the existing thermal oxidizer.

37. BWAY shall provide purchase order records and photographic documentation of the modifications described in paragraph 36, no later than 14 days after completion of the project or 14 days after the effective date of this agreement, whichever is later.

38. BWAY must conduct testing to demonstrate compliance with 40 C.F.R. § 63.3554 at Litho Line #4 no later than 150 days of the effective date of this agreement and submit reports of the same as set out below:

- a. BWAY shall conduct the performance test as described in the "PROTOCOL TO RETEST B-WAY'S LITHO LINE #4 AS A PERMANENT TOTAL ENCLOSURE (PTE)", dated September 4, 2019.
- b. By no later than 14 days prior to the performance test, BWAY shall provide notice of the testing date to EPA.
- c. By no later than 30 days after completion of the performance test, BWAY shall submit a final and complete performance test report to EPA.
- d. No later than 30 days after receipt of a final and complete performance test report, EPA will approve the results or request additional information regarding the test and/or the PTE. In the event that the test does not demonstrate that Litho Line #4

meets the requirements of a PTE, additional testing or improvements may be required, notwithstanding BWAY's adherence or failure to adhere to the September 4, 2019 protocol.

39. Respondent must submit all notices and reports required by this ACO by first-class mail to the Compliance Tracker of the Air Enforcement and Compliance Assurance Branch at the address provided in paragraph 40 of this ACO.

40. BWAY must send all reports required by this Order to:

Attention: Compliance Tracker (AE-18J)
Air Enforcement and Compliance Assurance Branch
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

A copy of the all notices and reports required by this ACO must also be sent to Dakota Prentice via electronic mail to prentice.dakota@epa.gov.

General Provisions

41. This Order does not affect BWAY's responsibility to comply with other federal, state, and local laws.

42. This Order does not restrict EPA's authority to enforce the CAA and its implementing regulations.

43. Failure to comply with this Order may subject BWAY to penalties of up to \$97,229 per day for each violation under Section 113 of the CAA, 42 U.S.C. § 7413, and 40 C.F.R. Part 19.

44. The terms of this Order are binding on BWAY, its assignees and successors. BWAY must give notice of this Order to any successors in interest prior to transferring

ownership and must simultaneously verify to EPA, at the above address, that it has given the notice.

45. BWAY may assert a claim of business confidentiality under 40 C.F.R. Part 2, Subpart B, for any portion of the information it submits to EPA. Information subject to a business confidentiality claim is available to the public only to the extent allowed by 40 C.F.R. Part 2, Subpart B. If BWAY fails to assert a business confidentiality claim, EPA may make all submitted information available, without further notice, to any member of the public who requests it. Emission data provided under Section 114 of the CAA, 42 U.S.C. § 7414, is not entitled to confidential treatment under 40 C.F.R. Part 2, Subpart B. "Emission data" is defined at 40 C.F.R. § 2.301.

46. This Order is not subject to the Paperwork Reduction Act, 44 U.S.C. § 3501 *et seq.*, because it seeks collection of information by an agency from specific individuals or entities as part of an administrative action or investigation. To aid in our electronic recordkeeping efforts, please furnish an electronic copy on physical media such as compact disk, flash drive or other similar item. If it is not possible to submit the information electronically, submit the response to this Order without staples; paper clips and binder clips, however, are acceptable.

47. EPA may use any information submitted under this Order in an administrative, civil judicial, or criminal action.

48. BWAY agrees to the terms of this Order. BWAY waives any remedies, claims for relief, and otherwise available rights to judicial or administrative review that it may have with respect to any issue of fact or law set forth in this Order, including any right of judicial review under Section 307(b) of the CAA, 42 U.S.C. § 7607(b).

49. This Order is effective on the date of signature by the Director of the Enforcement and Compliance Assurance Division. This Order will terminate following EPA's review and approval of the testing demonstrating compliance with 40 C.F.R. § 63.3554 at Litho Line #4 conducted pursuant to paragraph 38.

BWAY Corporation

Sept. 17, 2019
Date

ALL / C. /
Allen Coppolo, Director, Environment Health & Safety
BWAY Corporation

United States Environmental Protection Agency

9/20/2019
Date

Michael D Harris
Michael D. Harris
Acting Division Director
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 5

CERTIFICATE OF MAILING

I certify that I sent the Administrative Consent Order, EPA-5-19-113(a)-IL-09, by certified mail, return receipt requested, to:

Rick Manley
Mauser Packaging Solutions
6 Litho Road
Trenton, NJ 08638

I also certify that I sent a copy of the Administrative Consent Order EPA-5-19-113(a)-IL-09 by E- mail to:

Kent Mohr
kent.mohr@illinois.gov

On the 25th day of September 2019.



Kathy Jones
Program Technician
AECAB, PAS

CERTIFIED MAIL RECEIPT
NUMBER:

7019 0140 0000 0722 3888